

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Kate Brattin	Team: Team # 1	CCRB Case #: 200714916	<input type="checkbox"/> Force	<input type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Saturday, 09/29/2007 8:34 PM	Location of Incident: E. 184th St. and Walton Ave.	Precinct: 46	18 Mo. SOL 3/29/2009	EO SOL 3/29/2009	
Date/Time CV Reported Fri, 10/12/2007 11:54 AM	CV Reported At: CCRB	How CV Reported: Phone	Date/Time Received at CCRB Fri, 10/12/2007 11:54 AM		

Complainant/Victim	Type	Home Address

Witness(es)	Home Address

Subject Officer(s)	Shield	TaxID	Command
1. POM Rafael Perdomo	21268	942338	046 PCT
2. POF Rosalyn Rosahamdja	31489	942476	046 PCT
3. POM Gypsy Pichardo	00861	942353	046 PCT

Officer(s)	Allegation	Investigator Recommendation
A.POM Rafael Perdomo	Abuse: PO Rafael Perdomo searched § 87(2)(b) s car.	
B.POM Gypsy Pichardo	Abuse: PO Gypsy Pichardo searched § 87(2)(b) s car.	
C.POF Rosalyn Rosahamdja	Abuse: PO Rosalyn Rosahamdja searched § 87(2)(b) s car.	
§ 87(2)(g), § 87(4-b)		

Synopsis

At about 8:30 PM on September 29, 2007, § 87(2)(b) and his friends, § 87(2)(b) and § 87(2)(b) were on the sidewalk in front of the door of § 87(2)(b)'s apartment, located near the corner of East 184th Street and Walton Avenue in the Bronx, where they had set up chairs. § 87(2)(b)'s car was legally parked nearby. PO Stephanie Cepeda, assigned to the 46th Precinct, who was making observations from a nearby roof, called officers working impact patrol and informed them that the men were blocking pedestrian traffic. Based on this information, PO Rafael Perdomo, PO Gypsy Pichardo and PO Rosalyn Rosa-Hamdja, also of the 46th Precinct, responded to the location and approached § 87(2)(b) asking him and the other men to move. At this time, PO Perdomo allegedly questioned § 87(2)(b) about whether he had a gun in his car. Officers either checked § 87(2)(b)'s car with flashlights or searched it with the owner's consent [Allegations A-C]. PO Perdomo then asked § 87(2)(b) for his identification and served him with a summons for disorderly conduct. PO Perdomo did not make an entry in his memo book with regard to the encounter or the summons.

§ 87(2)(b), § 87(2)(g)

Summary of Complaint

§ 87(2)(b) a resident of § 87(2)(b) in Manhattan, who was § 87(2)(b), filed his complaint over the telephone on October 12, 2007. § 87(2)(b) a § 87(2)(b)-old bald African-American male with brown eyes and a short goatee, who was 5'10" tall and weighed 200 pounds, was interviewed at the CCRB on December 21, 2007. His sworn statement (Encl. 5A-J) was consistent with earlier statements he provided over the telephone at the time he filed his complaint (Encl. 3A-B) and on October 18, 2007 (Encl. 4A).

In the mid-afternoon or evening on September 29, 2007, § 87(2)(b) went with his friend, known to him as "§ 87(2)(b)" but identified by the investigation as § 87(2)(b) to the Bronx to visit another friend, § 87(2)(b). § 87(2)(b) believed that he was wearing denim shorts, a blue polo shirt, and blue sneakers that day. Both § 87(2)(b) and § 87(2)(b) were wearing blue jeans. § 87(2)(b) lived in a street-level apartment on the corner, and the three men were speaking in front of his apartment door. § 87(2)(b) and § 87(2)(b) were standing on the sidewalk, and § 87(2)(b) was leaning against the closer side of his parked car. He had the built-in stereo on with the volume only loud enough for him to hear it. He did not know precisely what time it was, but the sun had not yet set. As they talked, § 87(2)(b) noticed two men on the roof of the apartment, about five or six floors up. He suspected that they might be police officers in plain clothes, because they kept looking down at the street, but he was not sure. § 87(2)(b) worried that, if they weren't officers, they might throw something off the roof. While he was speaking with § 87(2)(b) and § 87(2)(b) went over to his car three times. The first time, he changed the music, and the second time, he opened the trunk and took out a buffer with which to wipe down the car. He returned to the car a third time to replace the buffer in the trunk. § 87(2)(b) had to go into the car to pop the trunk both times.

About ten minutes later, a marked police van approached, and two males and one female exited the vehicle, leaving it parked diagonally across the crosswalk at the corner. § 87(2)(b) did not notice which officer was driving. A male Hispanic officer, identified by the investigation as PO Perdomo, asked the men who owned § 87(2)(b)'s car. § 87(2)(b) said that the car was his. The officers did not ask any further questions of his friends. PO Perdomo asked if § 87(2)(b) had a gun in the car, because they had heard that he had a gun. § 87(2)(b) said that was ludicrous. The other male officer, identified by the investigation as PO Pichardo, stood in the middle of the street, near the driver's side of the car. He seemed to be following PO Perdomo's lead, and said something like, "We're just here to make sure everything's all right." The female officer, identified by the investigation as PO Rosa-Hamdja, walked toward § 87(2)(b)'s door, where § 87(2)(b) and § 87(2)(b) were standing. § 87(2)(b) remarked of PO Rosa-Hamdja, "Oh, this is the same officer who gave me a ticket for drinking," referring to a previous incident when he was issued a summons for drinking a beer inside his house with the door open. § 87(2)(b)

§ 87(2)(b) seemed to be speaking both to PO Rosa-Hamdja and to § 87(2)(b). PO Rosa-Hamdja replied something along the lines of, “Oh, you deserved it.” § 87(2)(b) said, “This is harassment.” He told the officers that he had no problem with them searching his car, and opened the doors for them so that they could check inside. He could not remember if officers had specifically asked him if they could search the car. They opened the doors and looked inside the vehicle. PO Perdomo checked the front passenger seat, PO Pichardo checked the driver’s seat, and PO Rosa-Hamdja the back seats. There was a washcloth that § 87(2)(b) used for wiping his face lying on the front passenger seat. PO Perdomo asked what was under the washcloth. § 87(2)(b) lifted the cloth to show that there was nothing there. He could not remember if officers searched the trunk.

§ 87(2)(b) did not remember for sure if he was ever told to leave the area. PO Perdomo might have ordered him to leave after the search of the car revealed nothing. After they searched the car, § 87(2)(b) again expressed his belief that this was harassment, and told the officers that he couldn’t believe that they were bothering him. An officer responded, “Yeah, yeah, yeah.” PO Perdomo asked for § 87(2)(b)’s ID, which he provided. § 87(2)(b) and § 87(2)(b) remarked that the officer probably wanted to give § 87(2)(b) a ticket. § 87(2)(b) became angry and said, “This is unbelievable, I can’t believe this. You’re writing me a ticket? You didn’t even find no gun or weapon.” He was not yelling, but was speaking loudly enough for all three officers to hear him. His friends tried to calm him down. § 87(2)(b) said, “No, I have the right to speak my mind.” He stated that he wanted the officers’ names and badge numbers so that he could make a complaint, because he felt that the officers should be doing something better with their time. PO Perdomo went to the police van and began to write out a summons, leaving the door open. Meanwhile, § 87(2)(b) found a piece of paper in his car, and § 87(2)(b) got him a pen from inside his apartment. § 87(2)(b) copied down the officers’ names and badge numbers from his observation. PO Perdomo came out of the van and handed it to § 87(2)(b). The summons appeared to be for “failure to disperse [disperse].” § 87(2)(b) told the officers that if they were going to give him a ticket for not leaving the area, he should give one to the entire Bronx, since there were many people outside. The officers did not request his friends’ IDs, or ask them to leave.

At the conclusion of the interview, § 87(2)(b) viewed single photographs of six Hispanic male police officers. Included were photographs of Police Officer Rafael Perdomo (tax number 942338) and Police Officer Gypsy Pichardo (tax number 942353), both of whom were assigned to the 46th Precinct on September 29, 2007. All identifying information was removed from the photographs prior to § 87(2)(b)’s viewing them. § 87(2)(b) stated that Photograph #2, which depicted PO Perdomo, looked like the darker skinned officer who had issued him the summons. He was about 60% sure that he was the officer in question. He stated that he hadn’t looked very closely at the other male officer at the time he interacted with him, because his main attention was on PO Perdomo.

§ 87(2)(b)’s summons was dismissed in court about two weeks prior to the interview.

Results of Investigation

Additional Civilian Statements

§ 87(2)(b)

§ 87(2)(b) a resident of § 87(2)(b), in Manhattan, provided a statement over the telephone on February 25, 2008 (Encl. 7A). § 87(2)(b) stated that on the day of the incident, he was outside § 87(2)(b)’s apartment with § 87(2)(b) and § 87(2)(b). The men had two chairs set up on the sidewalk in front of the apartment door, but § 87(2)(b) was not sure if he was standing or sitting down. § 87(2)(b) was leaning against his own parked car. There were two individuals on a nearby roof, who § 87(2)(b)’s friends believed to be police officers. § 87(2)(b) surmised that these officers might have called in information about himself and his friends. Six or seven additional officers arrived and spoke to § 87(2)(b) and his friends. § 87(2)(b) described one of the officers as getting “a little out of hand,” but stressed that he was not saying that the officer hadn’t been doing his job or that he was acting unprofessionally. § 87(2)(b) was not sure what the officers were investigating. He stated that he, § 87(2)(b) and § 87(2)(b) had been just relaxing before they arrived, but remembered that the officers had said that they were disturbing the peace.

Attempts to Contact Civilians

The investigation was unable to obtain a statement from § 87(2)(b). Although the incident took place outside § 87(2)(b)'s apartment building, neither § 87(2)(b) nor § 87(2)(b) could provide his exact street address. His telephone number was found to be out of service. A letter was sent to a Bronx Post Office Box registered to § 87(2)(b) on February 22, 2008, but § 87(2)(b) did not contact the CCRB.

Officer Statements

Police Officer Rafael Perdomo

Police Officer Rafael Perdomo, a § 87(2)(b), was interviewed at the CCRB on January 29, 2008 (Encl. 10A-B). PO Perdomo worked from 6:00 PM on September 29, 2007 to 2:00 AM the next morning. He was working with PO Pichardo, his regular partner, and with PO Rosa-Hamja. PO Perdomo was dressed in uniform and was assigned to impact patrol in a marked van, which he was driving. PO Perdomo did not bring his **memo book** to the CCRB on the day he was interviewed, but none of his entries from the date of incident (Encl. 8A-B), which he faxed to the CCRB at a later date, mentioned the encounter with § 87(2)(b). At 8:34 PM on September 29, 2008, PO Perdomo completed a **summons** for § 87(2)(b) (Encl. 9A) for failure to disperse (penal law 240.20, subsection 6) from the corner of East 184th Street and Walton Avenue.

PO Perdomo remembered that at about 8:30 PM on September 29, 2007, he, PO Pichardo and PO Rosa-Hamja were informed by PO Cepeda, who was making observations from a rooftop, that there was a group of men being "a little bit loud." PO Cepeda gave them this information and the location via cell phone. About five minutes later, the officers came up East 184th Street and observed three male civilians sitting in chairs on the sidewalk at the corner of 184th Street and Walton Avenue, in the vicinity of a parked car. The door to a basement apartment nearby was open. The area was residential and it was already dark outside. PO Perdomo pulled over the van on East 184th Street, and the officers got out. PO Perdomo was the first officer to approach the civilians, and the one who did "all the talking." He did not recall what he said first, but he instructed the civilians that they were blocking pedestrian traffic on the sidewalk and would have to move. PO Perdomo first directed his order specifically to one of the males, § 87(2)(b), who PO Perdomo described as a black or Hispanic male, but was not sure why he had done so. PO Perdomo also ordered the other two men to move. He did not ask any of the civilians about weapons, or ask any other questions. He did not recall what, if anything, PO Pichardo and PO Rosa-Hamja said to the civilians. § 87(2)(b) began to behave in a belligerent fashion and was screaming and yelling. § 87(2)(b) told the officers that he and his friends were just hanging out, and protested that he didn't need to move.

There was a vehicle nearby, which PO Perdomo believed belonged to one of the men. He did not recall asking the civilians if it belonged to them, but arrived at that conclusion because of its proximity to the men and the fact that the windows were rolled down. § 87(2)(b) was nearest to the car, but did not go towards it. PO Perdomo didn't remember if the car was on or off, or what kind of a car it was. All three officers checked inside the car by shining his flashlight in through the windows while remaining outside of the vehicle. PO Perdomo stated that they checked the car for their own safety; he wanted to insure that § 87(2)(b) didn't have anything inside that might harm the officers because § 87(2)(b)'s yelling had made him nervous.

PO Perdomo repeated the order to move, saying that § 87(2)(b) was causing a scene. § 87(2)(b) still refused to move, so PO Perdomo asked for his identification in order to write him a summons for failure to disperse. After PO Perdomo gave § 87(2)(b) the summons, the other two men moved, taking their chairs inside, so PO Perdomo did not summons them.

Police Officer Gypsy Pichardo

Police Officer Gypsy Pichardo, a § 87(2)(b), was interviewed at the CCRB on January 29, 2008 (Encl. 12A-B).

PO Pichardo worked from 5:30 PM on September 29, 2007 until 2:05 AM the next day. He was working with PO Myers, PO Perdomo, PO Taylor and PO Rosa-Hamdja. PO Pichardo was dressed in uniform and was assigned to van #5704 with the four other officers. They were assigned to impact patrol.

His **memo book** (Encl. 11A-B) relates that a summons was issued to one male by PO Perdomo at 8:34 PM for failure to disperse at East 184th Street and Walton Avenue. His next entry was from 10:02 PM.

PO Pichardo remembered that on September 29th, 2007, he received a call from PO Cepeda stating that there was a group of males blocking pedestrian traffic at the corner of East 184th Street and Walton Avenue. PO Cepeda could reportedly see the men from her position on the roof of a building located on that corner. She did not provide a description of the males. PO Perdomo, who was driving the van, drove to the location, arriving two minutes after receiving the call. The officers in the van saw that § 87(2)(b) was located near a parked car on Walton Avenue. He was on the sidewalk, but closer to the street than to the sidewalk. His two friends were located closer to the building. The three men were sitting in chairs. PO Pichardo believed that all five officers got out of the van, but could not recall who approached the males first. The officers asked all three civilians several times to move from the sidewalk, but they refused. They were not asked any questions. PO Pichardo did not ask the men if they had weapons, or hear other officers ask this. PO Pichardo himself never spoke to the men. He could not remember which officers did. One civilian, § 87(2)(b) became belligerent and began to behave in a loud and disorderly manner. He said that he knew the law. § 87(2)(b) was the only civilian who was belligerent.

After asking them a few times to move, PO Perdomo decided to write § 87(2)(b) a summons, which he completed. The other two men were not issued summonses, and officers never obtained their IDs. PO Pichardo did not recall if any of the men moved from the sidewalk as ordered. No officers searched the car, but they looked inside with flashlights from outside. No one was frisked or searched. After issuing the summons, the officers left.

Police Officer Rosalyn Rosa-Hamdja

Police Officer Rosalyn Rosa-Hamdja, a § 87(2)(b), was interviewed at the CCRB on January 29, 2008 (Encl. 14A-B).

PO Rosa-Hamdja worked from 5:30 PM on January 29, 2008 until 2:05 AM the following day with PO Pichardo and PO Perdomo. She was not working with anyone else at the time of the incident. The officers were assigned to marked van #5704 and were assigned to patrol. PO Rosa-Hamdja was dressed in uniform. Her **memo book** (Encl. 13A-B) noted that at 8:34 PM, a summons was served by PO Perdomo at 184th Street and Walton Avenue. PO Rosa-Hamdja wrote “possible CCRB” next to the entry.

PO Rosa-Hamdja recalled that PO Cepeda called PO Pichardo by cellular phone, informing the officers that there were some males located on the corner of 184th Street and Walton, and directing them to move the civilians along. PO Perdomo was driving the vehicle. When they arrived at the specified location, PO Rosa-Hamdja saw two males sitting in beach chairs on the sidewalk, located about a foot in front of an apartment door. They were blocking pedestrian traffic. PO Cepeda was not present on the sidewalk. The officers got out of the van and asked the civilians to move. PO Rosa-Hamdja stated that she got out in order to back up her fellow officers.

The officers ordered the males to move at least three times, but they said that they lived there and did not have to move. The officers attempted to explain to the men that they lived in the apartment, not on the sidewalk. PO Rosa-Hamdja did not remember if she herself spoke to the men. PO Perdomo was the first officer to approach and first to speak. One of the males appeared to be upset. He raised his voice, cursing and saying that it was a public sidewalk and the officers had no business to tell him to move. He asked for the officers’ badge numbers. All three officers turned their bodies in order to display their shields to him. He wrote down the numbers. This was the reason that PO Rosa-Hamdja wrote “possible CCRB” in her memo book.

PO Perdomo decided that this individual would be issued a summons, which he wrote out.

The officers noticed a nearby vehicle with lowered windows. The engine was not running. One of the civilians said that it belonged to him, but PO Rosa-Hamdja could not remember which. They shone their flashlights inside without physically going inside the vehicle or reaching in through the windows.

PO Rosa-Hamdja did not remember any officers asking the two men any questions. She did not remember if they moved as ordered. The whole incident lasted five or six minutes. PO Rosa-Hamdja was not aware of having seen either of the men before.

Police Department Documents

The **46th Precinct Tour 3 Roll Call** from September 29, 2007 (Encl. 15A-B) indicates that PO Perdomo, PO Pichardo, PO Rosa-Hamdja, PO Cepeda and PO Taylor were all assigned to work from 5:30 PM on September 29 until 2:05 AM on September 30. The roll call noted that PO Myers had been moved to the second platoon.

§ 87(2)(b)

Officer CCRB Histories

PO Perdomo, PO Pichardo and PO Rosa-Hamdja have been employed by the NYPD for one year. None of these officers has ever been the subject of an allegation of misconduct that was substantiated by the CCRB.

Conclusions and Recommendations

Officer Identification and Pleading of Allegations

§ 87(2)(b) took down the badge numbers of PO Perdomo, PO Pichardo and PO Rosa-Hamdja at the scene. All three officers acknowledge their participation in the stop of § 87(2)(b). Although PO Pichardo stated that PO Taylor and PO Myers were also present, and although § 87(2)(b) stated that six or seven officers in total approached him and his friends, neither of PO Pichardo's partners stated that additional officers were with them. In his three statements to the CCRB, § 87(2)(b) consistently mentioned only PO Perdomo, PO Pichardo and PO Rosa-Hamdja. The investigation found that they were the only officers present.

Because officers responded to a report of a violation of penal law from PO Cepeda, who witnessed it, and issued § 87(2)(b) a summons based on that information, allegations regarding the initial stop and alleged questioning were not pled.

§ 87(2)(b) stated that the three officers searched inside his car. For this reason, search allegations are being pleaded against PO Perdomo, PO Pichardo and PO Rosa-Hamdja.

Undisputed Facts

It is undisputed that PO Perdomo, PO Pichardo and PO Rosa-Hamdja approached § 87(2)(b) and § 87(2)(b) and that the officers determined that the car parked nearby belonged to § 87(2)(b) and looked inside with their flashlights. PO Perdomo served § 87(2)(b) with a summons for failure to disperse.

§ 87(2)(b), § 87(2)(g)

§ 87(2)(b), § 87(2)(g)

§ 87(2)(b), § 87(2)(g)

[illegible]

Allegation A: Abuse of Authority: Police Officer Rafael Perdomo searched § 87(2)(b) s car.
Allegation B: Abuse of Authority: Police Officer Gypsy Pichardo searched § 87(2)(b) s car.
Allegation C: Abuse of Authority: Police Officer Rosalyn Rosa-Hamdja searched § 87(2)(b) s car.

§ 87(2)(b) alleged that PO Perdomo, PO Pichardo and PO Rosa-Hamdja searched his car.
§ 87(2)(b), § 87(2)(g)

§ 87(2)(b), § 87(2)(g), § 87(4-b)

Investigator:	Kate Brattin	Date:
Supervisor:	Cecelia Holloway	Date:
Reviewed by:	Samuel Bufter	Date:
Reviewed by:	William Begeny	Date: